

ESTTA Tracking number: **ESTTA387176**

Filing date: **01/07/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Wildfire Interactive, Inc.
Granted to Date of previous extension	01/09/2011
Address	3485 El Camino Real Palo Alto, CA 94306 UNITED STATES
Attorney information	Alex S. Fonoroff Kilpatrick Townsend & Stockton LLP 1100 Peachtree Street Suite 2800 Atlanta, GA 30309 UNITED STATES afonoroff@ktslaw.com, svayner@ktslaw.com, kteilhaber@ktslaw.com, tadmin@ktslaw.com

### Applicant Information

Application No	77921906	Publication date	07/13/2010
Opposition Filing Date	01/07/2011	Opposition Period Ends	01/09/2011
Applicant	MOBILIZATION LABS, LLC SUITE 605 3384 PEACHTREE RD Atlanta, GA 30326 UNITED STATES		

### Goods/Services Affected by Opposition

Class 042. First Use: 2005/01/05 First Use In Commerce: 2005/01/05

All goods and services in the class are opposed, namely: Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking featuring a platform enabling a user to leverage social relationships to locate and recruit supporters/donors, provides motivational systems for said supporters, and allows the user track and analyze results

### Grounds for Opposition

Other	Mark was not in use in commerce in connection with all of the services listed as of the filing date of the application. Application is therefore ineligible for registration under Section 1(a) of the Lanham Act, 15 U.S.C. Section 1051(a).
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Attachments	2011.01.07 Notice of Opposition (SN 77921906).pdf ( 5 pages )(24272 bytes )
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## **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Sabina A. Vayner/
Name	Sabina A. Vayner
Date	01/07/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

WILDFIRE INTERACTIVE, INC.,	)	
	)	
Opposer,	)	Mark: WILDFIRE
	)	
v.	)	Serial No. 77/921,906
	)	
MOBILIZATION LABS, LLC,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer Wildfire Interactive, Inc. (“Wildfire Interactive”) believes that it will be damaged by registration of the WILDFIRE mark set forth in Applicant Mobilization Labs, LLC’s (“Mobilization Labs”) Application Serial No. 77/921,906, as published in the *Official Gazette* on July 13, 2010 (the “Application”). Wildfire Interactive has been granted extensions of time to oppose and now timely states the following grounds for its Opposition to the Application:

1. Wildfire Interactive is a technology company specializing in the development of tools that enable organizations to engage users of social network sites. Since its launch several years ago, Wildfire has used the WILDFIRE mark in connection with products and services that enable corporations, small businesses, marketing agencies, and many others to create their own branded, interactive campaigns and to simultaneously publish those campaigns in multiple social networks and on their websites.

2. On February 3, 2010, Wildfire Interactive filed an application to register the WILDFIRE mark shown in Application Serial No. 77/926,726. On May 28, 2010, Wildfire Interactive filed a Request to Divide Application Serial No. 77/926,726 such that certain goods and services in classes 9, 41, and 42 remained in the parent application (Serial No. 77/926,726)

(“parent application”) and certain goods and services in classes 9, 35, 37, 38, 41, 42, and 45 were transferred to a child application (Serial No. 77/979,726) (“child application”).

3. On January 27, 2010, Mobilization Labs filed its application to register the WILDFIRE mark (Application Serial No. 77/921,906) for “[c]omputer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking featuring a platform enabling a user to leverage social relationships to locate and recruit supporters/donors, provides motivational systems for said supporters, and allows the user track and analyze results” in International Class 42. Mobilization Labs’ Application was filed under Section 1(a) of the Lanham Act and thus is based on Mobilization Labs’ representation that it used the mark in commerce in connection with all the services listed in the Application on the date it was filed.

4. Prior to Wildfire Interactive’s Request to Divide its application, the examining attorney issued an Office Action, stating that Mobilization Labs’ Application may be cited against registration of Wildfire Interactive’s WILDFIRE mark should that application mature to registration.

5. On July 14, 2010, Wildfire Interactive filed a response to the examining attorney’s Office Action for the child application, requesting suspension of all action on the child application until final disposition of Mobilization Labs’ pending Application. Wildfire Interactive’s child application remains suspended as of the date of this Notice of Opposition.

6. Wildfire Interactive’s parent application passed to publication and was published in the *Official Gazette* on August 17, 2010. Since the date of publication, Mobilization Labs has filed two extensions of time to oppose Wildfire Interactive’s parent application. Mobilization Labs’ current deadline to file its opposition to the parent application is set for February 13, 2011.

7. Additionally, on September 22, 2010, Mobilization Labs filed a civil action against Wildfire Interactive in the United States District Court for the Northern District of Georgia, alleging trademark infringement, unfair competition, and deceptive trade practices based on Wildfire Interactive's use of the WILDFIRE mark (Civil Action No. 1:10-CV-03043-TWT). The case remains pending.

8. On information and belief, and in violation of 15 U.S.C. § 1051(a), Mobilization Labs' WILDFIRE mark was not in use in commerce in connection with all of the services listed in Mobilization Labs' Application as of the filing date of the Application. Consequently, Mobilization Labs' Application is ineligible for registration under § 1(a) of the Lanham Act.

9. Wildfire Interactive will be damaged by registration of Mobilization Labs' WILDFIRE mark because such registration will give Mobilization Labs *prima facie* evidence of the validity and ownership of, and the exclusive right to use in commerce, a mark to which the trademark rights have not yet been determined conclusively, as evidenced by the pending civil action and Mobilization Labs' extensions of time to oppose Wildfire Interactive's registration of the WILDFIRE mark.

10. The required \$300.00 opposition fee is being electronically processed in connection with this Notice of Opposition. The Director is authorized to debit Kilpatrick Townsend & Stockton LLP's Trademark Deposit Account No. 11-0855 for any deficiency in the required fee.

WHEREFORE, Wildfire Interactive requests that Application Serial No. 77/921,906 be refused in its entirety and that no registration issue to Mobilization Labs and, further, that this Opposition be sustained in favor of Wildfire Interactive.

*[Signature on following page]*

This 7th day of January 2011.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sabina A. Vayner", with a long horizontal flourish extending to the right.

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Alex S. Fonoroff

Sabina A. Vayner

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*Attorneys for Opposer*

*Wildfire Interactive, Inc.*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

WILDFIRE INTERACTIVE, INC.,	)	
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Opposer,	)	Mark: WILDFIRE
	)	
v.	)	Serial No. 77/921,906
	)	
MOBILIZATION LABS, LLC,	)	
	)	
Applicant.	)	

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing **Notice of Opposition** was served on Applicant's Attorney of Record and Correspondent on January 7, 2011 via first class mail to:

Clifton Tunnell, Esq.  
Anderson Dailey, LLP  
2002 Summit Boulevard  
Suite 1250  
Atlanta, Georgia 30319



Sabina A. Vayner  
*Attorney for Opposer*

**CERTIFICATE OF TRANSMITTAL**

This is to certify that a true and correct copy of the foregoing **Notice of Opposition** is being filed electronically with the TTAB via ESTTA on this day, January 7, 2011.



Sabina A. Vayner  
*Attorney for Opposer*